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In re Application of
CHANDLER, Howard, Milne
U.S. Application No.: 09/763,154 : DECISION
PCT No.: PCT/AU99/00310 :
International Filing Date: 27 April 1999 :
Priority Date: 28 April 1998 :
Attorney's Docket No.: 0141-2004 :
For: SAMPLE COLLECTION METHOD :

This decision is issued in response to applicant's "Petition Under 37 CFR 1.10(e)" filed on 08 January 2001, which has been treated herein as a petition under 37 CFR 1.181 to confirm the filing of the present national stage application on 27 October 2000. No petition fee is required.

BACKGROUND

On 27 April 1999, applicant filed international application PCT/AU99/00310 which claimed a priority date of 28 April 1998 and which designated the United States. On 04 November 1999, a copy of the international application was communicated to the United States Patent And Trademark Office ("USPTO") by the International Bureau ("IB").

A Demand was filed with the International Preliminary Examining Authority electing the United States prior to the expiration of nineteen months from the priority date. As a result, the deadline for payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 30 October 2000 (28 October 2000 was a Saturday).

On 27 October 2000, applicants claim to have filed with the USPTO by Express Mail a transmittal letter for entry into the national stage in the United States containing an authorization to charge Deposit Account No. 06-0130 for the basic national fee, and a copy of the international application.

On 08 January 2001, applicant filed the petition considered herein. Accompanying the petition are copies of the following: (1) the materials purportedly filed on 27 October 2000; (2) a stamped postcard receipt itemizing these materials and bearing a USPTO receipt stamp dated 27 October 2000; and (3) an Express Mail receipt bearing label number EK257451949US and a 27 October 2000 USPS stamp.

DISCUSSION

Section 503 of the MPEP states:

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Here, applicants have submitted a copy of a return postcard that identifies the present application (by attorney docket number, inventor, and title) and that specifically itemizes the "U.S National Stage Patent Application Transmittal, Specification (pgs 1-11); Claims (pgs 12-13); Abstract of the Disclosure (pg 14); and Express Mail Label EK257451949US." The postcard bears a PCT/PTO receipt stamp dated 24 April 1998, and the petition includes a statement that the attached materials are true copies of those originally filed.

Based on applicants' statements and the stamped return postcard, it is concluded that the materials accompanying the present petition and itemized on the return postcard were in fact originally filed on 27 October 2000, before the expiration of thirty months from the priority date. Accordingly, there is no need to address applicants' petition under 37 CFR 1.10(e).

CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

Deposit Account No. 06-0130 has been charged the \$1,000 basic national fee.

This application is being forwarded to the National Stage Processing Branch of the International Division for further processing in accord with this decision, including mailing of a Notification Of Missing Requirements (Form PCT/DO/EO/905) requiring submission of an executed declaration in compliance with 37 CFR 1.497 and the \$130 surcharge for filing the declaration later than thirty months after the priority date.



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Presentation:

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(21) Int. Application Number: PCT/AU99/00310	(51) International Patent Classification ⁶ : G01N 1/10, 33/72, C12Q 1/28	(11) Int. Publication Number: WO 99/56103
(22) Int. Filing Date: 27 April 1999 (27.04.1999)		(43) Int. Publication Date: 04 November 1999 (04.11.1999)
(30) Priority Data PP 3237 28 April AU 1998 (28.04.1998)		A1
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(74) Agent: SLATTERY, John, M. Davies Collison Cave, 1 Little Collins Street, Melbourne, VIC 3000 ; (AU).		(54) Title: SAMPLE COLLECTION METHOD No Image Available.
(81) Designated States: AE, AL, AM, AT, AU, AZ, BA, BB, BG, BR, BY, CA, CH, CN, CU, CZ, DE, DK, EE, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MD, MG, MK, MN, MW, MX, NO, NZ, PL, PT, RO, RU, SD, SE, SG, SI, SK, SL, TJ, TM, TR, TT, UA, UG, US, UZ, VN, YU, ZA, ZW, ; ARIPO patent (GH, GM, KE, LS, MW, SD, SL, SZ, UG, ZW); Eurasian patent (AM, AZ, BY, KG, KZ, MD, RU, TJ, TM); European patent (AT, BE, CH, CY, DE, DK, ES, FI, FR, GB, GR, IE, IT, LU, MC, NL, PT, SE); OAPI patent (BF, BJ, CF, CG, CI, CM, GA, GN, GW,	(57) Abstract A method for collecting a sample derived from faecal material, for example for occult blood testing, comprises contacting the faecal material with a fluid such as water and subsequently collecting a sample of the fluid with a brush or a brush-like device having flexible or semi-flexible bristles, wherein the sample of the fluid is collected within the bristles of the brush or brush-like device.	